

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company)	
)	
Regarding a Complaint and Petition by)	Docket No. 02-0277
Commonwealth Edison Company for an Order)	
finding PDV Midwest LLC in Violation of the)	
Prohibition on Resale of Retail Electric Service)	
contained in the Illinois Public Utilities Act and)	
set forth in Rider 12, Conditions of Resale or)	
Redistribution of Electricity by the Customer to)	
Third Persons, and for other Relief.)	

**AGREED DECLARATION OF ISSUES FOR DETERMINATION
ON RESPONDENTS' JOINT MOTION FOR SUMMARY JUDGMENT**

Respondents PDV Midwest Refining, LLC ("PDV Midwest") and CITGO Petroleum Corporation ("CITGO") and The Needle Coker Company ("NCC") and Chicago Carbon Company ("CCC"), and complainant and petitioner Commonwealth Edison Company ("ComEd") (collectively, the "Parties"), by and through their attorneys, hereby file this Agreed Declaration of Issues for Determination on Respondents' Joint Motion for Summary Judgment ("Motion") pursuant to the June 5, 2003 Ruling of the Administrative Law Judge.

Issues for Determination on Motion

- I. Whether PDV Midwest, on its own or through CITGO, engaged in the prohibited resale of ComEd's retail electric service during the term of service under the Rate CS Contract.¹
- II. Whether due to Unocal's ownership interests in the needle coking plant and the calciner plant at the Lemont Facility, NCC and CCC should have been served as retail customers separate from PDV Midwest during the term of service under the Rate CS Contract.²

¹ As referenced herein, "Rate CS Contract" has the same meaning as in the Motion and ComEd's Verified Complaint and Amended Verified Petition. (See Mot., ¶ 39, Ex. U; Compl. & Pet., ¶ 17).

- III. Whether, as a matter of law, the Commission should return a finding as to the correct filed rate and the amount of charges for electric service ComEd provided to PDV Midwest's operations and NCC's and CCC's operations at the Lemont Facility during the term of service under the Rate CS Contract.
- IV. Whether, as a matter of law, the Commission should authorize ComEd to issue a bill for electric service used by NCC and CCC during the term of service under the Rate CS Contract.

Conclusion

WHEREFORE, the Parties respectfully request that the Administrative Law Judge rule upon Respondents' Joint Motion for Summary Judgment based upon the Issues for Determination, as set forth in this Declaration, and upon the facts and evidence and the briefing submitted with respect to the Motion.

Dated: June 13, 2003

Respectfully submitted,


PDV MIDWEST REFINING, LLC AND
CITGO PETROLEUM CORPORATION

By: _____
One of their attorneys

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² As referenced herein, "Unocal" means Unocal Corporation and its affiliates. (See Mot., ¶¶ 1, 8; Compl. & Pet., ¶ 4). "Lemont Facility" has the same meaning as in the Motion and ComEd's Verified Complaint and Amended Verified Petition. (See Mot., ¶ 1; Compl. & Pet., p. 1).

CHICAGO CARBON COMPANY AND
THE NEEDLE COKER COMPANY

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CERTIFICATE OF SERVICE

I, John E. Rooney, hereby certify that I served a copy of the Agreed Declaration of Issues for Determination on Respondents' Joint Motion for Summary Judgment upon the service list in Docket No. 02-0277 by electronic mail on June 13, 2003.

John E. Rooney